IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

-

WRIT PETITION NO : 21387 of 1995

Between:

Y. Pullamma W/o Late Y.V.Subbaiah Naidu
r/o H.NO.42/133.Near two town police station Kurnool

..... PETITIONER

AND

1 Mandal Revenue Officer, Kurnool
2 Qureshi Mohammed Yakub S/o Hussain saheb, Muthavalli, Police Line Mosque, Near Two Town Police station Kurnool
3 Inspector, Auditor of Wakfs, Kurnool

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ of Mandamus declaring the proceedings of the 1st respondent herein passed in his memo dt:18-9-1995 as illegal, improper, irregular, arbitrary, malafide and without Jurisdiction.

Counsel for the Petitioner: MR.K.PALAKSHA REDDY
Counsel for the Respondent No.1 : GP FOR REVENUE
Counsel for the Respondent No.2 : Mr Syed Shareef Ahmed
Counsel for the Respondent No.3 : Mr Mirza Nisar Ahmed Baig

The Court made the following :

ORDER:

This writ petition has been filed seeking a declaration that the proceedings dated 18-09-1995 of the 1st respondent as illegal and arbitrary.

The facts of this case may be briefly recited as under:

The husband of the petitioner constructed a hut in the site admeasuring Ac.0-1 ½ cents near Police line Mosque and since then their family had been living therein continuously. While so, the 2nd respondent Muthavalli of Police Line Mosque, filed O.S.91 of 1989 on the file of Principal District Munsif Court, Kurnool for eviction and delivery of vacant possession of the hut contending that he leased out the same to the husband of the petitioner viz., Y.V.Subbaiah Naidu. During pendency of the suit, husband of the petitioner died. Thereafter, petitioner and her children were brought on record as LRs. Mean while at the instance of respondents 2 & 3, the 1st respondent issued a memo dated 18-09-1999 directing the Mandal Revenue Inspector to evict the petitioner and her children from the hut. Hence, the writ petition.

Learned counsel for the petitioner contends that the hut was erected by the husband of the petitioner and he was absolute owner of the same. He further contends that the 1st respondent has no jurisdiction to issue the impugned memo as the same was issued only at the instance of the respondents 2 & 3. The learned Counsel also urged to grant liberty to the petitioner to avail the remedy of appeal before the appellate authority that is available to the petitioner.

Heard the learned Counsel on either side.

As seen from the averments made in the affidavit filed in support of the writ petition, it clearly goes to show that the petitioner sought to question the jurisdiction of the first respondent in issuing issue the impugned memo dated 18-9-1995.

In view of the above objection, without going into merits of the case, it would suffice, if liberty is given to the petitioner to avail the remedy of appeal, if any, before the appellate authority.

However, the petitioner shall avail such remedy of appeal, within a period of six weeks from the date of receipt of a copy of this order, and on preferring such appeal, the second respondent shall dispose of the same within a period of eight weeks thereafter. Till passing of such orders, the interim suspension granted by this Court shall continue.

With the aforementioned directions, the writ petition is dismissed. No costs.

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23rd December 2004

Kvrk

To

1 The Mandal Revenue Officer, Kurnool
2 The Inspector Auditor of Wakfs, Kurnool

3. Two CCs to GP for Revenue, High Court Buildings, Hyderabad (OUT)

4. Two CD copies.